

REMARKS

Summary of the Amendment

Upon entry of the instant Amendment, claims 15, 16 and 34 will have been canceled, claims 1, 35, 43 and 44 will have been amended, and claims 45-48 will have been added. Accordingly, claims 1-14, 17-33 and 35-48 will be pending with claims 1, 43, 44 and 45 being in independent form.

Summary of the Official Action

In the Final Office Action, the Examiner withdrew claims 4-7 as being directed to a non-elected species. Additionally, the Examiner rejected claims 1-3 and 8-42 as indefinite, which was subsequently withdrawn in the Examiner's Answer. Finally, the Examiner rejected claims 1-44 over the art of record. By the present amendment and remarks, Applicant submits that the rejections have been overcome, and respectfully requests reconsideration of the outstanding Office Action and allowance of the present application.

Claims 4-7 Are Withdrawn by the Examiner

Claims 4-7 were withdrawn by the Examiner because, the Examiner asserts, these claims are readable on Figs. 41-42 instead of Figs. 36-40.

While Applicant disagrees that these claims cannot be read on the elected species, Applicant requests that these claims be rejoined if and when claim 1 is found to be allowed/allowable.

Traversal of Rejection Under 35 U.S.C. § 102(b)/103(a)

Applicant respectfully traverses the rejection of claims 1-3, 8-23, 27-31 and 36-42 under 35 U.S.C. § 102(b) as anticipated or as unpatentable under 35 U.S.C. § 103(a) over US patent 6,156,051 to SCHRAGA.

The Examiner asserts that SCHRAGA discloses or suggests, among other things, a second stop surface that is non-movably coupled to the body and that at least partial rotation of the front cover causes the skin engaging end to move axially relative to the second stop surface.

Applicant respectfully disagrees for the reasons already made of record (which were not found persuasive by the Board) and additionally because claim 1 has now been amended to recite a trigger movably mounted to the body and a front cover removably mounted to the body and comprising a skin engaging end that includes a lancet opening through which a lancet needle may extend. As such, the Examiner can no longer reasonably argue that the members 50 and 20A constitute the recited front cap and that the member 20C constitutes the recited body. Note that the so-called body 20C does not have a trigger mounted thereto.

Thus, Applicant submits that the above-noted document fail to disclose or suggest the features recited in at least independent claim 1. Because no proper modification of the above-noted document discloses or suggests at least the above-noted features of the instant invention, Applicant submits that no proper modification of this document can render unpatentable the combination of features recited in at least independent claim 1.

Furthermore, Applicant submits that there is no motivation or rationale disclosed or

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suggested in the art to modify any of the applied document in the manner asserted by the Examiner. Nor does the Examiner's opinion provide a proper basis for these features or for the motivation to modify this document, in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claim 1 is not rendered obvious by any reasonable inspection of these documents.

Additionally, Applicant submits that dependent claims 2, 3, 8-14, 17-23, 27-31 and 36-42 are allowable at least for the reason that these claims depend from an allowable base claim and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper modification of SCHRAGA discloses or suggests, in combination: that the lancet device further comprises a back cap configured to move between a retracted position and an original position as recited in claim 2; that the back cap is configured to move the holding member to a retracted position as recited in claim 3; that the lancet device further comprises another spring for biasing the back cap towards an original position as recited in claim 8; that the main spring biases the holding member towards an extended position, and further comprising another spring for biasing the holding member in an opposite direction as recited in claim 9; that the main spring and said other spring are arranged to surround portions of the holding member as recited in claim 10; that the main spring is coupled one side of the holding member and to a surface of the body as recited in claim 11; that the holding member comprises cylindrical surfaces and a polygonal cross-sectional shape as recited in claim 12; that the lancet device further comprises a locking member mounted to the rear end of the holding member as recited in claim 13; that the main spring surrounds a

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portion of the holding member and wherein the other spring is disposed between a surface of a back cap and the locking member as recited in claim 14; that the lancet device further comprises a mechanism for at least temporarily maintaining a depth setting position of the front cover as recited in claim 17; that the holding member comprises an integrally formed deflecting member that engages a surface of the body as recited in claim 18; that the front end comprises an opening that is configured to removably receive the lancet as recited in claim 19; that the lancet device further comprises a deflecting member configured to be deflected by the trigger as recited in claim 20; that the deflecting member is coupled to the holding member as recited in claim 21; that the deflecting member comprises an engaging surface that contacts a surface of the body as recited in claim 22; that the deflecting member is integrally formed with the holding member as recited in claim 23; that the holding member comprises a front portion that includes the front end and a rear portion that includes the rear end, wherein the front and rear portions are connected together as recited in claim 27; that the rear portion comprises a locking end which receives a locking member as recited in claim 28; that the front portion comprises a deflecting member configured to be deflected by the trigger as recited in claim 29; that the front cover rotates about an axis that runs through the lancet opening and the holding member as recited in claim 30; that the main spring is disposed between the trigger and a back cap as recited in claim 31; that the body comprises an ergonomic shape as recited in claim 36; that the body comprises cylindrical surfaces as recited in claim 37; that the body comprises a plastic material as recited in claim 38; that the front cover comprises gripping protrusions as recited in claim 39; that the lancet device further comprises threads connecting the front

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cover to the body as recited in claim 40; a method of puncturing a surface of skin using the lancet device of claim 1, wherein the method comprises adjusting a set depth of penetration of the needle by rotating the front cover to a desired set position, disposing the skin engaging end of the lancet device against a user's skin, and triggering the trigger to cause the lancet needle to penetrate the user's skin, wherein the puncture allows a blood sample to be taken as recited in claim 41; and a method of using the lancet device of claim 1, wherein the method comprises rotating the front cover to a desired set position, moving the holding member to a retracted position, maintaining the holding member in the retracted position until the trigger is triggered, disposing the skin engaging end of the lancet device against a user's skin, and triggering the trigger to cause movement of the holding member as recited in claim 42.

Applicant requests that the Examiner reconsider and withdraw the rejection of the above-noted claims under 35 U.S.C. § 102(b)/103(a).

Traversal of Rejections Under 35 U.S.C. § 103(a)

Over Schraga

Applicant respectfully traverses the rejection of claims 24-26 and 32-35 under 35 U.S.C. § 103(a) as unpatentable over SCHRAGA alone.

The Examiner acknowledges that SCHRAGA lacks, among other things, the features recited in the above-noted claims such as the recited indicia and the recited two-piece body. However, the Examiner asserted that such features are taught in SCHRAGA and that it would have been obvious to one of ordinary skill in the art to combine the

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teachings of these documents.

Applicant respectfully disagrees for the reasons already made of record (which were not found persuasive by the Board) and additionally because claim 1 has now been amended to recite a trigger movably mounted to the body and a front cover removably mounted to the body and comprising a skin engaging end that includes a lancet opening through which a lancet needle may extend. As such, the Examiner can no longer reasonably argue that the members 50 and 20A constitute the recited front cap and that the member 20C constitutes the recited body. Note that the so-called body 20C does not have a trigger mounted thereto.

Thus, Applicant submits that the above-noted document fails to disclose or suggest the features recited in at least independent claim 1. Because no proper modification of the above-noted documents discloses or suggests at least the above-noted features of the instant invention, Applicant submits that no proper modification of this document can render unpatentable the combination of features recited in at least independent claim 1.

Furthermore, Applicant submits that there is no motivation or rationale disclosed or suggested in the art to modify any of the applied document in the manner asserted by the Examiner. Nor does the Examiner's opinion provide a proper basis for these features or for the motivation to modify this document, in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claim 1 is not rendered obvious by any reasonable inspection of these documents.

Additionally, Applicant submits that dependent claims 24-26, 32, 33 and 35 are allowable at least for the reason that these claims depend from an allowable base claim

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and because these claims recite additional features that further define the present invention. In particular, Applicant submits that no proper modification of SCHRAGA discloses or suggests, in combination: that the lancet device further comprises indicia arranged on at least one of the front cover and the body as recited in claim 24; that the indicia is arranged on an outer circumferential surface of the body as recited in claim 25; that the indicia is arranged on an outer circumferential surface of the front cover as recited in claim 26; that the body comprises a two-piece body as recited in claim 32; that the lancet device further comprises another spring axially retained between walls of the two-piece body as recited in claim 33; and that the lancet device further comprises a back cap movably mounted to the two-piece body as recited in claim 35.

Applicant requests that the Examiner reconsider and withdraw the rejection of the above-noted claims under 35 U.S.C. § 103(a).

Over Slama with Schraga

Applicant respectfully traverses the rejection of claims 43 and 44 under 35 U.S.C. § 103(a) as unpatentable over US patent 4,469,110 to SLAMA in view of US patent 6,156,051 to SCHRAGA.

The Examiner acknowledged that SLAMA lacks, among other things, the features recited in the above-noted claims such as the recited main spring disposed between the front and rear ends of the holding member. However, the Examiner asserted that this feature is taught in SCHRAGA and that it would have been obvious to one of ordinary skill in the art to combine the teachings of these documents.

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Applicant respectfully disagrees for the reasons already made of record (which were not found persuasive by the Board) and additionally because claims 43 and 44 have now been amended to recite a main spring arranged closer to the front end of the holding member than the rear end and being disposed between the front and rear ends of the holding member and/or a first spring arranged closer to the front end of the holding member than the rear end and being disposed between the front end of the holding member and a surface of the body. As such, the Examiner can no longer reasonably argue that the spring 40 constitutes the recited main or first spring. Note that the spring 40 in SCHRAGA is closer to a rear end of member 30 and that front end and that SLAMA places the spring behind the holding member 3.

Thus, Applicant submits that the above-noted documents fail to disclose or suggest the features recited in at least independent claims 43 and 44. Because no proper combination of the above-noted documents discloses or suggests at least the above-noted features of the instant invention, Applicant submits that no proper modification of these documents can render unpatentable the combination of features recited in at least independent claims 43 and 44.

Furthermore, Applicant submits that there is no motivation or rationale disclosed or suggested in the art to modify any of the applied documents in the manner asserted by the Examiner. Nor does the Examiner's opinion provide a proper basis for these features or for the motivation to modify these documents, in the manner suggested by the Examiner. Therefore, Applicant submits that the invention as recited in at least independent claims 43 and 44 is not rendered obvious by any reasonable inspection of these documents.

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Applicant requests that the Examiner reconsider and withdraw the rejection of the above-noted claims under 35 U.S.C. § 103(a).

New Claims are also Allowable

Applicant submits that the new claims 45-48 are allowable over the applied art of record. Specifically, claims 45-48 recite a combination of features which are clearly not disclosed or suggested by the applied art of record. Accordingly, Applicant respectfully requests consideration of these claims and further requests that the above-noted claims be indicated as being allowable.

CONCLUSION

In view of the foregoing, it is submitted that none of the references of record, either taken alone or in any proper combination thereof, anticipates or renders obvious the Applicant's invention, as recited in each of the pending claims. The applied references of record have been discussed and distinguished, while significant claimed features of the present invention have been pointed out.

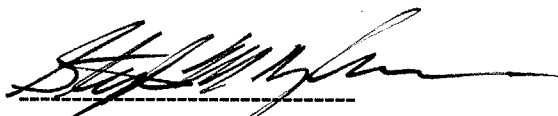
Accordingly, reconsideration of the outstanding Office Action and allowance of the present application and all the claims therein are respectfully requested and now believed to be appropriate.

The Commissioner is hereby authorized to refund excess payments and charge any additional fee necessary to have this paper entered to Deposit Account No. 19-0089.

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Should the Examiner have any further comments or questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
S. SCHRAGA

A handwritten signature in black ink, appearing to read "Neil F. Greenblum", written over a horizontal dashed line.

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